

JURY SAYS MILLS IS NOT GUILTY.

Book Less Than a Quarter of an Hour to Find a Verdict—A Unanimous Vote on the First Ballot.

...in the Court Room When the Finding Was Announced—Mills Affected, but Maintains His Self Control, While His Sister Weeps for Joy—Mrs. Mills's Father Happy Over the Verdict—Mrs. O'Melveny Absent for the First Time—Closing Argument for the Prosecution by Mr. Putnam this Morning—The Charge of the Court—Captain Mills's Plans for the Future—Has Made Many Friends Here—Will He and His Wife Become Reconciled?

At 12 o'clock today, Capt. Fred J. Mills walked out of the Third court room a free man. He took the jury less than a quarter of an hour to agree upon a verdict, and eighteen minutes after they had reached the verdict of not guilty was in an open court.

The termination of the case was a fitting climax to the long and sometimes stormy trial. Mr. Putnam, in closing his argument to the jury, addressed himself wholly to the reason of the men before him, while it seemed a foregone conclusion that the jury would acquit, the prosecutor did not relax his vigilance fully discharged his duty.

The attendance was not so large as yesterday afternoon, probably because no one expected a verdict so soon. The lobby was crowded, and the sympathy for the defendant was so great that some expression of it had doubtless been made but for the warning that any attempt at demonstration would be fitly rebuked by the court.

The group in front of the bench was considerably changed when the end came. Judge Powers was not feeling well enough to attend. Mrs. O'Melveny, who remained through the closing argument and while the charge was being read, left the court room and remained in the county attorney's office.

He himself sat by his sister and husband, Rev. David Mills. Behind him were his father-in-law, H. H. and his brother-in-law, and D. Douglas Wallace, and other friends.

It was nearly 11:30 when the jury returned to their room. They chose Eli A. and as foreman, took one ballot and were ready to report at 11:40. Word was sent to Judge Norrell, who at once entered court, and the spectators backed into the room.

As the clerk read every eye was upon him. Mills did not move a muscle, but his face became paler than lead. His sister was visibly agitated, and his brother-in-law, Rev. David, sat with his eyes closed. The brother and sister of Mrs. Mills were deep in concern, and young Mrs. Mills was wreathed with smiles at the verdict.

His hands were instantly grasped by sister, whose joy was so great her face flowed. As soon as court adjourned, Mills walked with a quick firm step, to Judge Norrell's private office, where he remained for ten minutes, before he left the building with Rev. Mrs. Mills.

CAPT. MILLS' FUTURE.
Capt. Mills has not decided definitely his plans for the future, but it is known he will remain here until Monday at least. There has been much speculation as to whether or not he and wife would become reconciled, but if Mills has such an intention, it is his only to himself.

He has been known to have won the friendship of every one who has come in contact with him during his confinement. Throughout this whole period, he has conducted himself as a high-bred gentleman, and has been the subject of much public sentiment. No one has been heard to criticize the verdict.

JUDGE POWERS CLOSING.
It is the first time the "News" report closed yesterday afternoon, Judge Powers was speaking and said in part:

OF A RELIC OF BARBARISM.
I have called this a relic of barbarism. He tore himself into actual tatters in denouncing this jury. That is not the first time the man has felt themselves wiser than the law. It is not the first time the man has been so far from the law as to be a father and mother were good. Here, when men were nearer to God than they are now, their thoughts elevated by their surroundings, this law was formulated by the people. Is it to stand here to defend it?

IT IS RIGHT.
Right. Read your Bible. It is the law of God. The husband was the first stone. So it remained until Christ came, and a woman was added to him. Then he said, "Let us be without sin among you cast the first stone." No stones were cast. Christ said, "Go thou and sin no more." I commend to the other in considering the unfortunate woman in the case.

THE LAW OF ENGLAND.
In 200 years this law was the law in England. But there came a time

The killing was not justified. It was done in cold blood, with such deliberation that showed there was no heat of passion about it. He was shot down from behind by the man who waited calmly in the office until he was alone with his victim. The statute the Utah did not justify such a killing. If it did, then any man in Salt Lake might be shot down with impunity. Any man in Salt Lake would be the victim of a woman's tongue.

Here an adjournment was taken until this morning.

The Morning Session.
When court opened at 9:30 this morning, Mr. Putnam resumed his argument. O'Melveny, he claimed, was not guilty of adultery with Mrs. Mills. There was nothing in the case to prove it, except the unsupported statement of the accessory, which would not be evidence in any court in the land. Counsel had dwelt at great length upon the need of protecting the virtue of woman, and the law given in sacred writ. "Thou shalt not covet thy neighbor's wife."

But there was another law. It was, "Thou shalt not kill." The Utah statute does not justify the killing of one who has done a wrong. The killing is absolutely wrong. But the law took into account the effect of discovering his wife and some man in their guilt. If the man has time to deliberate and think, then the law does not justify him. If he nurses this passion and broods over it, then he cannot claim any justification. Mills knew what he was doing, when he shot down that man as he would a cur in the street. Talk about protection to the home! There was nothing in the case to prove he was destroying the woman he was making a widow of and the five little children he was making orphans of.

WAS MILLS INSANE?
The defense in this case first undertakes to show you that what Mills did was right and proper, and just what a sane man would be expected to do. That was their first contention, but in the next breath the defense undertook to show that Mills was insane, a mental wreck, totally irresponsible. There is not the least testimony in the case to show that he had ever done an insane act or uttered an insane word. It was during the time just preceding this murder that Mills drew up the agreement of separation. That paper established his sanity. And Judge Powers went on to show that the sane man would have his mind was clear and he knew exactly what he wanted done. On the Sunday before the tragedy he was self possessed and calm, and on Oct. 3, following, from start to finish, showed that he had perfect control of himself. The thought of taking his own life never entered his mind that day. If it had, he had plenty of chance to take it. The claim of insanity was absurd—perfectly groundless. The sane man of kind of insanity counsel had ever heard of.

THE QUESTION OF CHARACTER.
In a doubtful case it would count for something, but in a clear case, like this, it would count for nothing to show previous good character. Mills talked all the way through the case, about O'Melveny's friendship for him, and it was a shame to come in here and attempt to blacken the character of the dead.

They ask you to acquit a man who has killed another for something unproven. They tell you that this is the protection of the home and the protection of the state. Judge Powers told you that the pistol shot that day was a warning to some licentious men. He thought this sort of a killing was a good thing. Why, gentlemen, an acquittal would not be any terror to the guilty. It would strike terror to the heart of innocent men, and would place every man's life at the mercy of an abandoned woman's tongue. Don't let us have any false ideas or sentimentalities about this. Murder should be punished, and when the murderer is acquitted, the duty of the jury should appear absolutely plain. If the law compels you to acquit the man, acquit him, and if it is your duty to convict him, then do your duty. This murder was deliberate and premeditated. Don't acquit on any such ridiculous proposition that the defendant was insane. Don't be gulled though, by oratorical pyrotechnics or appeals to your sympathy. If you acquit do it on legal grounds. We ask nothing more. Study the facts, apply the law to them and see what they show you. Daniel Webster said every unpunished murderer is a menace to the security of human life, and it is even so. It is an encouragement to crime. Remember that law and order have supplanted barbarism and anarchy. A man may no longer take the law into his own hands, under these circumstances, and be justified.

Gentlemen, consider the evidence calmly, dispassionately and if you do that, you can do nothing else than find the defendant guilty.

JUDGE NORRELL'S CHARGE.
Special Reference to the Statute Presented in Justification.
When Prosecutor Putnam closed his address to the jury, a hush fell upon the court room as Judge Norrell faced the men in whose hands was placed the fate of Capt. Mills, and proceeded to read the charge slowly and deliberately, and the interest with which it was listened to was almost painful in its intensity. The charge consisted of fifty-three sections and the delivery occupied a little over half an hour.

The charge was of the usual nature in such cases, the allegations of the complaint being set out and the definition of murder in the first and second degree and manslaughter being given. The most important part of the charge was that constraining section 4163, the Utah statute justifying the act of a husband in killing the defiler of his wife, when such act is done in the heat of passion.

THE UTAH STATUTE.
On this the court said:
You are further instructed that section 4163 of the compiled laws of Utah specifies the cases in which homicide is justifiable; and among these is the case where the slayer kills "in a sudden heat of passion, caused by the attempt of the person killed to commit a rape upon the wife of the defendant, or daughter, sister, mother, or other female relation or dependent, or to defile the same, or when the defendant has actually been committed."

In this connection, I charge you that the seduction, or the having of illicit carnal intercourse by a man with the wife of another, without his consent or connivance, or with the daughter, sister, mother, or other female relation or dependent of the defendant, is a defilement of such female, within the meaning of this statute, whether such intercourse was with the consent of such female or not.

In this case the defendant admits that he shot and killed the deceased, but he claims that he was justified in so doing, because it was suddenly made apparent to him that the deceased had just recently defiled his wife, sister, mother, or other female relation or dependent of the defendant, is a defilement of such female, within the meaning of this statute, whether such intercourse was with the consent of such female or not.

MR. PUTNAM'S CLOSE.
Prosecution insists that the Killing Was a Fool Murder.
County Attorney Putnam commenced the closing argument in the case soon after Judge Powers finished last evening. He spoke calmly, yet with emphasis, and his presentation of the evidence from the standpoint of the prosecution was clear and logical.

O'Melveny was dead, he said, and it was a heinous crime for him to be dead. He had been tried, convicted, sentenced and executed by one man, and executed upon an unproven charge, in disregard of every constitutional right.

SCHOOL LOAN IS NOT POPULAR.

Returns Up to Three O'clock Indicate Defeat of the Plan.

VACCINATION IS A FACTOR.

Others Opposed to Any Increase in Taxation—Property Qualification Excludes Some Women Voters.

Unless there is a decided change before the polls close at 7 o'clock this evening, the proposition submitted by the board of Education to borrow \$20,000, the amount needed to keep the public schools open for the full school year, will be voted down by a considerable majority.

A canvass of the five voting places at 3 o'clock this afternoon, shows that the negative vote is largely in the lead, and those most directly interested in having the schools kept open say that the proposition will evidently be defeated.

A number of considerations are influencing tax payers to vote "no," and the board's stand in regard to vaccination is one of them. A number of those who voted against the loan say that they are opposed to having their children vaccinated. As the board does not propose to admit to the schools any who have not been vaccinated, these parents have no great object in keeping the schools open. This feeling is undoubtedly responsible for a good many negative votes.

Others seem to consider that the loan was practically the same as the bonding proposition. The reckoning would come some time, and it would mean an increase in taxes. Being opposed to increasing taxes, they voted "no."

In some precincts, notably the Fourth, many ladies were not permitted to vote, because they did not possess the property qualifications, that is, they did not own property, nor had they paid taxes on their own homes as required. This not only decreased the vote, but gave the affirmative of the proposition some support.

FIRST PRECINCT.
At the polling booth in the Eighth ward, opposite the joint building, 230 votes had been cast up to 3 o'clock this afternoon. Of this number it was thought more than two-thirds voted "No." Everything was quiet and there were no incidents of any kind.

SECOND PRECINCT.
In the Second precinct the judges reported everything quiet, with apparently little interest being manifested in the election. Up to 3 o'clock less than 200 votes had been cast. The qualified voting strength of this precinct in this election is over 2,500.

THIRD IS AGAINST.
Voting in the Third was at the old Sixteenth ward school house. At 3 o'clock about 225 votes were cast and

it was the firm belief of observers that at least three-fourths were against the proposition.

"NO" IN THE FOURTH.
The election in the Fourth was held at Taggart's hall, almost the extreme east end of the precinct. At 3 o'clock this afternoon, but 130 votes had been cast, but these were, according to appearance, overwhelmingly "No." The position taken generally was: "If our children are to be kept out of school on account of not being vaccinated, then the board of education can't get any more money if we can help it."

FIFTH PRECINCT.
At the Thirteenth ward schoolhouse, the polling place for the Fifth precinct, less than 150 votes had been deposited in the ballot boxes up to 3 o'clock. Interest there was at a very low ebb and everything was quiet. Over 2,000 persons in this precinct are entitled to vote at this election.

MRS. BARLOW DROWNED.

Wife of a St. George Pioneer Meets an Unfortunate Death.

Special per Deseret Telegraph.
St. George, Washington Co., Jan. 19.—Mrs. Oswald Barlow, the wife of one of the pioneers of this place, was drowned last evening through falling over a water gate in one of the west ditches of this city, and was not found till late last night.

PRESS ASSOCIATION.

Out-of-Town Editors in Conference at the Kenyon Hotel.

Members of the Utah Press association have been congregating in this city for the past two days to attend their annual meeting announced for today. Out-of-town editors constitute the association and a goodly representation of them is here.

The meeting was held at the Kenyon hotel this afternoon, but the lateness of its opening prevented the presentation of a report of proceedings in this issue.

MISS BIGGART'S LECTURE.

Will be Delivered at the Ladies' Library Club Tonight.

Miss Mabels Biggart will lecture this evening under the auspices of the Ladies' Library club. Her subject is to be "George Eliot," and the lecture will include a condensed dramatization of Adam Bede written by Miss Biggart. The recital will be accompanied with a musical orchestration. Miss Biggart is not only a delightful speaker but is talented in many other ways. She is an enthusiastic student of ethnology, and has made a tour of America gathering material which she intends publishing soon, entitled "Ourselves and Our Neighbors," a work which will be completed as soon as she visits Mexico, the lady being at present on her way to the land of Montezuma. Newfoundland, Labrador and the Esquimaux regions have already been visited by Miss Biggart, and the result of her research will be included in her book. Miss Biggart has written a novel dealing with Newfoundland scenes, and "Arcadians Old and New" is another book from her pen suggested by her Canadian travels. Miss Biggart is also a member of the National Geographical society of the United States in aid of educational institutions, philanthropies and women's clubs. She has a most charming personality and is a treat to those who attend her lecture and recital this evening.

GREATEST DISASTER OF THE WAR.

American Supply Train Ambushed by Filipino Insurgents—Train is Captured—Americans Defeated With a Loss of 16 Men.

Washington, Jan. 20.—The first untoward happening in the highly successful campaign now going on in Luzon is announced in the following cablegram:
"Manila, Jan. 20.—Pack train, twenty ponies, transporting rations between Santo Tomas and San Pablo, Laguna province, escorted by 50 men under Lieut. Ralston, Thirtieth infantry, was ambushed yesterday; two men killed,

five wounded, nine missing, pack train lost. Lieutenant and thirty-four men returned to Santo Tomas with killed and wounded; affair being investigated."
"Doret, Fifth infantry, found insurgents in Batangas mountains prepared in ambush to meet him; he killed eight, wounded three, captured seventeen, one Spaniard, six rifles; his casualties two men slightly wounded."

ATTACK ON BOER TRENCHES BEGUN

Gen. Warren Leads It—Relative of President Kruger Captured—Boers Preparing to Retire From Colesberg—Estimate of Boer Losses—British Are Confident.

Spearman's Camp, Natal, Jan. 20, 11:15 a. m.—The firing of field guns was heard early this morning from the left. Evidently Gen. Warren has commenced the bombardment of the Boer trenches on Tabananyana mountain. There was also a brief musketry fire. Among the prisoners captured Thursday was a grandson-in-law of President Kruger.

Rensburg, Cape Colony, Friday, Jan. 19.—A gentleman who has escaped from Colesberg, reports that the Dutch inhabitants who are sympathizers with the Boers are proceeding to the Orange Free State in anticipation of the evacuation of the town. Mr. Van Der Walt, a member of the Cape assembly, has already gone. The Boer force there is estimated to number from 6,000 to 7,000 men, besides a strong number of Norvalke Pont.

The British shells did much execution eastward of the town. The Boer loss up to date is probably 200 men. Carefully compiled figures from republican sources, some of which have been investigated and found to be correct, show the Boer losses up to date, are approximately 6,425 men, including 2,000 casualties during the siege of Ladysmith.

London, Jan. 20.—Telegrams from the

REPORTS ON THE ROBERTS CASE.

Grave and Unjustifiable Charge Against the People of Utah by the Majority of the House Committee.

Say His Election Was a Violation of the Understanding by Which Utah Was Admitted to Statehood—Committee Unanimous That Mr. Roberts Should Not Remain a Member of the House of Representatives—Exclusion Insisted On by the Majority—Seat Should be Declared Vacant—Grounds of Exclusion—Charge That Mr. Roberts is in Open War Against the Laws—Constitutional Qualifications Discussed Forcible Points in Minority Report.

[SPECIAL TO THE "NEWS."]
Washington, D. C., Jan. 20.—The special committee made reports in the House today. The majority report, which was presented by Chairman Taylor, is a most voluminous document, and covers every phase of the question. It recommends that Roberts be excluded.

The minority report which was presented by Littlefield (Rep.) and Deamond (Dem.) is an exhaustive review of the constitutional questions involved. The signers point out that Roberts has all the constitutional requirements and that his prima facie right to be sworn in cannot be questioned.

They agree, however, that it has been established that Roberts is a polygamist and as such, he should not be allowed to retain his seat. They concede that the House can, if it so decides, exclude Roberts, but to do so, would be an act of arbitrary power; it would be an act of tyranny, and it would establish a dangerous precedent.

The minority report is highly spoken of. The case will come up next Tuesday. Roberts will be given two hours to reply to the majority and minority reports.

A vote will probably be had Thursday afternoon.

Washington, Jan. 20.—Reports of the special committee of investigation in the case of Brigham H. Roberts of Utah were presented to the House today. The majority report, signed by Chairman Taylor and six of his associates, is a voluminous document and is accompanied by a summary of the law and facts. It gives the details of the hearings, the ample opportunities afforded to Mr. Roberts to present his case, his refusal to testify, and the unanimous finding of facts, heretofore published.

It proceeds:
"The committee is unanimous in its belief that Mr. Roberts ought not to remain a member of the House of Representatives. A majority are of the opinion that he ought not to be permitted to become a member; that the House has the right to exclude him. A minority are of the opinion that the proper course of procedure is to permit him to be sworn in and then expel him by a two-thirds vote under the Constitutional provision providing for expulsion."

"Your committee desires to assert with the utmost positiveness at this point that not only is the proposition of expulsion as applied to this case against precedent but that exclusion is entirely in accord with principle, authority and legislative precedent, and not antagonistic to any legislative action which the House of Representatives has ever taken."

"For convenience we present herewith, before proceeding to extended argument in support of the committee's resolution, the following summary:
"Upon the facts stated, the majority of the committee assert that the claimant ought not to be permitted to take a seat in the House of Representatives, and that the seat which he was elected ought to be declared vacant."

"The minority, on the other hand, assert that he ought to be sworn in in order that if happily two-thirds vote therefor, he may be expelled."

"Three distinct grounds of disqualification are asserted against Roberts:
"1.—By reason of his violation of the Edmunds law.
"2.—By reason of his notorious and defiant violation of the law of the land, of the decisions of the Supreme Court, and of the proclamations of the Presidents, holding himself above the law and not amenable to it. No government could possibly exist in the face of such practices. He is in open war against the laws and institutions of the country, whose Congress he seeks to enter. Such an idea is intolerable. It is upon the principles asserted in this ground that all cases of exclusion have been based."

"3.—His election as a representative is an explicit and offensive violation of the understanding by which Utah was admitted as a State.
"The objection is made to the refusal to admit Roberts that the Constitution excludes the idea that any objection can be made to his coming in if he is 25 years old, if he has been seven years a citizen of the United States and was an inhabitant of Utah when elected, no matter how odious or treasonable or criminal may have been his life and practices. To this we reply:
"1. That the language of the constitutional provision, the history of its framing in the constitutional convention, and its context clearly show that it cannot be construed to prevent disqualification for crime.
"2. That the overwhelming authority of text book writers on the Constitution is to the effect that such disquali-

cation may be imposed by the House, and no commentator on the Constitution specifically denies it.
"3. The courts of several of the States in construing analogous provisions have, with practical unanimity, declared against such narrow construction of such constitutional provisions.
"4. The House of Representatives has never denied that it had the right to exclude a member elect even when he had the three constitutional provisions.
"5. In many instances it has distinctly asserted its right so to do in cases of disloyalty and crime.
"6. It passed in 1862 the test oath act, which imposed a real and substantial disqualification for membership in Congress disqualifying hundreds of thousands of American citizens.
"7. It remained in force for twenty years and thousands of members of Congress were compelled to take the oath it required.
"8. The House in 1869 adopted a general rule of order providing that no person should be sworn in as a member against whom the objection was made that he was not entitled to take the test oath, and if upon investigation such a person appeared he was to be permanently excluded from entrance.
"9. The interesting proposition is made that the claimant be sworn in and then turned out. Upon the theory that the purpose is to permanently part company with Roberts this is a dubious proceeding. Such action requires the vote of two-thirds of the members. We ask if such a vote is possible or right in view of the following observations:
"The expulsion clause of the Constitution is as follows:
"Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member."
"No lawyer can read that provision without raising in his own mind the question whether the House has any power to expel except for some cause relating to the contest. The ablest lawyers from the beginning of the Republic have so insisted and their reasoning has been so cogent that these propositions are established, namely:
"1.—Neither house of Congress has ever expelled a member for acts unrelated to his public duty or inconsistent with his public duty as such.
"2.—Both houses have many times refused to expel where the guilt of the member was apparent, where the refusal to expel was put upon the ground that the House or Senate as the case might be, had no right to expel for an act unrelated to the member as such, or because it was committed prior to his election."
The report concludes as follows:
"If there is any fact apparent in this case, it is that the constituents of Mr. Roberts knew all about him before his election. Can there be room to doubt the proper action of the House? Is it proper to yield up this salutary power of exclusion? Will it declare itself defenseless and ridiculous?
"Nor are those who assert that expulsion is the remedy necessarily barred from voting for the resolution declaring the seat vacant. He must, indeed, be technically correct in his construction of the Constitution who will not admit that if a vote to declare the seat vacant is sustained by a two-thirds majority the Constitution is substantially complied with. He may not agree with the committee that a mere majority can exclude, but he can reserve the right to make the point of order that the resolution is not carried if two-thirds do not vote for it.
"The House takes the action which the minority of the committee meets it ought to take, it will for the first time in its history part with a most beneficial power which it has often exercised—a power that ought rarely to be exercised, but which the House has never declared it did not possess.
"Mindful of the gravity of the question and realizing the responsibility imposed upon us, we recommend the adoption of the following resolution:
"Resolved, That under the facts and circumstances of this case, Brigham H. Roberts, Representative-elect from the State of Utah, ought not to have or hold a seat in the House of Representatives and that the seat to which he was elected, is hereby declared vacant."
(Signed)
"ROBERT W. TAYLOR,
"CHARLES H. LANDIS,
"PAGE MORRIS,
"ROMEO H. FREER,
"SMITH M'PIERSON,
"SAMUEL W. L. LANHAM,"
"ROBERT W. MIERS." MINORITY REPORT.

The minority report says:
"The undersigned members of the special committee appointed to investigate the case of Brigham H. Roberts to a seat in the House as the representative from Utah, being unable to agree with the conclusions of the committee as to the constitutional questions involved, very respectfully submit our views.
"Assuming that Mr. Roberts had been and is now a polygamist, unlawfully cohabiting with plural wives, and the House of Representatives is for that reason to be excluded from the House, to be a member thereof, what course should it rightfully pursue under the Constitution, the supreme law of the land—exclude him or expel him? If he is to be excluded he must be because he is for such reason legally ineligible or disqualified. The purpose is to consider the question of constitutional right, not of power, as it is conceded that the House has the power to exclude, with or without reason, right or